IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.

SUIT NO.1366 OF 1995

Mahanagar Telephone Nigam Limited .. Plaintiffs
v/s.
Karimji Ebrahimji Arsiwala .. Defendant

Mr. Viral Shah i/by M/s. Shukla & Associates for the plaintiffs.
Mr. S.S. Hanamghar, Telephone Revenue nspector, Representative AOTR Mandvi, MTNL Mumbai present.

CORAM : A.M. KHANWILKAR, J.
DATED : 18TH JULY, 2007

P.C.

This suit is placed under caption “undefended suit” in terms of order dated 24th March, 2000. None appears for the defendant though served. In fact, defendant had appeared before the court on the earlier dates. Suffice it to observe that defendant has not bothered to file written statement so far as a result the suit will have to proceed against the defendant.

2. The plaintiffs assert that the defendant was in arrears in respect of telephone bills. The demand was made by the plaintiffs by two separate bills dated 16th November, 1991 and 16th March, 1992. The aggregate amount payable by the defendant in terms of the said two bills works out to Rs.1,00,390/-. As the defendant failed to respond, the plaintiffs have approached this court by way of present suit for recovery of the bill amount in the sum of Rs.1,00,390/- plus instruct and directory charges Rs.560/-aggregate whereof comes to Rs.1,00,950/-. The plaintiffs have asked for the following reliefs:

(a) This Hon'ble Court may be pleased to pass an order and Decree against the Defendant for a sum of

Rs.1,00,950/- alongwith interest thereon at the rate of 21% per annum or at such other rate as this Hon'ble Court may deem fit and proper from the date of filing of the suit till payment or realisation.

(b) For costs and professional cost of the suit;

(c) For such other and further reliefs as the nature and circumstances of the case may require be granted.

3. As mentioned earlier, the defendant has not bothered to appear nor filed any written statement till today. It appears that the defendant has lodged written statement on 13th June, 2005 in the Registry which is pending objection. The defendant who had appeared in person before the court on the previous day, I am informed, was advised that he will have to take out formal application for condonation of delay in filing the written statement and to take the written statement on record, if so advised. Inspite of that the defendant has not taken out any formal application/notice of motion in that behalf. No such notice of motion on record is made available to the court. In the circumstances, this court will have to proceed on the assumption that no written statement has been filed by the defendant so far.

4. The plaintiffs, on the other hand, have filed affidavit of evidence sworn by Shri S.S. Hanamghar dated 29th March, 2007 who is the authorised officer of the plaintiffs. Besides, the plaintiffs have produced list of documents and the original documents on the basis of which the suit claim is pursued. The affidavit of evidence and the documents produced by the plaintiffs supports the claim of the plaintiffs. Obviously, there is no plausible defence available to the defendant. Besides, there is no reason to doubt the correctness of the claim of the plaintiffs. In the circumstances, in exercise of the powers under Order 8 Rule 10, I proceed to pass decree in favour of the plaintiffs in terms of prayer clause (a) which reads thus-

(a) This Hon'ble Court may be pleased to pass an order

> and Decree against the Defendant for a sum of Rs.1,00,950/- alongwith interest thereon at the rate of 21% per annum or at such other rate as this Hon'ble Court may deem fit and proper from the date of filing of the suit till payment or realisation.

5. Accordingly, suit is decreed in terms of prayer clause (a) with costs. Decree be drawn up accordingly.

6. Request made by the counsel across the Bar for permitting the plaintiff to execute the decree without sealing is rejected as I find no special reason to accede to that request. However, the request for expediting the sealing of the decree is granted.

(A.M. KHANWILKAR, J.)